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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

First Named Inventor: MICHAEL ALEXANDER SMITH

Art Unit: 3679

Application Number: 10/562525

Examiner: GARCIA, BRUNSTO

Filed: 12/27/2005

Title: FENCING INCLUDING VISIBLE BAND

Attention: Office of Petitions  
**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact  
Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.**

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

**1. Petition fee**

☒ Small entity – fee \$ 255.00 (37 CFR 1.17(l)). Applicant claims small entity status.  
See 37 CFR 1.27.

☐ Other than small entity – fee \$ \_\_\_\_\_ (37 CFR 1.17(l)).

**2. Reply and/or fee**

A The reply and/or fee to the above-noted Office action in the form of  
RESPONSE TO EXAMINER'S REPORT (identify the type of reply):

☐ has been filed previously on 03/19/2008 SSANDAR1 00000017 10562525  
01 FC:2452 255.00 OP

☒ is enclosed herewith.

B The issue fee of \$ 795.00 03/19/2008 SSANDAR1 00000018 10562525

☐ has been filed previously on 01 FC:8001 45.00 OP

☒ is enclosed herewith.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.  
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

03/26/2008 DTERRY 01 FC:1506



# **PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

## 3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

## **WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



Signature

**MICHAEL ALEXANDER SMITH**

Typed or printed name

**RD 1, ONGARUO STREAM ROAD, WAIMINA**

**TAUMARUNUI 3998 NEW ZEALAND**

Address

**MARCH 13TH 2008**

Date

Registration Number, if applicable

**64-7-8945857**

Telephone Number

Enclosure ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unavoidable delay

☒ **DOCUMENTS SUPPORTING STATEMENT**

## **CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:

☐ deposited with the ~~United States Postal Service~~ on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. **WITH THE NEW ZEALAND MAIL SERVICE**

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

**13 MARCH 2008**

Date

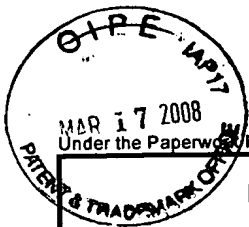


Signature

**MICHAEL ALEXANDER SMITH**

Typed or printed name of person signing certificate





MAR 17 2008  
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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Signature

13 ~~Feb~~ MARCH 2008

Date

MICHAEL ALEXANDER SMITH

Typed or printed name

Registration Number, if applicable

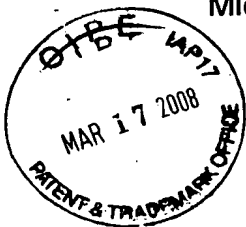
(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

*See attached*

(Please attach additional sheets if additional space is needed.)



Michael Alexander Smith declares as follows



1. I am the applicant in the above application.
2. My reply to Mr Ernesto's Garcia's examination report was despatched on October 31<sup>st</sup> through New Zealand Post and DHL to the US Patent and Trademark Office. See copy of NZ Post receipt and Consignment note.
3. Enclosed with the reply was a bank draft for \$795.00 in keeping with the delayed response. See copy of Westpac Banking Corporation receipt.
4. Instructions on the consignment note were for the package to be returned if delivery could not be made. This was not done.
5. It is unclear what happened to the package after arrival in the US. Many conflicting remarks have been made by DHL. Ultimately the package was requested to be returned to New Zealand and although this has been done it still has not arrived in my possession.
6. New Zealand Post acknowledge that the package appears to be lost and confirm that in their letter of 13<sup>th</sup> February 2008. On going searches have continued but to date without success.
7. On the 6<sup>th</sup> January 2008 the first renewal fee was forwarded and this original documentation together with the fee is enclosed. This was returned by the USPTO due to the patent then being recorded as "Abandoned". This is now enclosed should this petition be accepted.

I humbly submit that the circumstances that befell the non arrival my reply to Mr Garcia's examination report were outside my control and that the failure of DHL to either deliver or promptly return my submission have resulted in an unavoidable outcome.

Your reinstatement of the Patent, acceptance of the reply to the examiners report and the recording of Payment of the maintenance fee would be greatly appreciated.

Signed

A handwritten signature in black ink, appearing to be "Michael Alexander Smith".

Name MICHAEL ALEXANDER SMITH

Date 13<sup>th</sup> MARCH 2008



31<sup>st</sup> October 2007



Mr Ernesto Garcia  
Examiner  
US Patent and Trademark Office  
600 Dulany Street  
Alexandria  
Virginia  
USA

Application number: 10/562,525

First named inventor: Michael Alexander Smith

Sir,

I reply in response to your examination of the 8<sup>th</sup> of June 2007.

Enclosed is payment for the " extension of time within the fourth month " of \$795.00 as applies to a " small entity "

#### **Election**

I have elected the subject matter of claim 2 as originally filed, namely the stanchion post, and enclose a replacement claim set.

The prior art you have cited only discloses the use of a wide steel band, and is silent on the other elements of my invention. The key advantage of my invention is the facilitation of the rapid assembly of a fence line. This is primarily achieved through the use of stanchion posts formed with tabs which are foldable about a wide steel band to secure to the post, and is the reason for electing this element of my invention.

The other elements of the claim set originally filed have been made dependent on the replacement independent claim for the stanchion post, to ensure a common inventive element to all replacement claims.

#### **Prior art**

The claim set has been amended as a result of your examination report. The amendments better differentiate the invention from the prior art.

Claim 1 now reads:

*"A stanchion post which includes at least one tab to support a wide steel band  
of a light gauge to be used as a primary fencing medium,*



*characterised in that the tab is configured be turned over against the steel band  
to hold the steel band in place when in use."*

US486173 discloses a metallic fencing strip, with V-shaped notches along its edges. This is intended to appear from a distance to approximate the look of a rope fence. In fact, the nature of the notches along the outer edges of the fencing strip weakens the integrity of the strip. For this reason, it is not suitable for containment of large animals, particularly cattle, which could break the fencing strip with its weight.

It is clear from the specification of US486173 that there are no provisions for the metallic fencing strip to be secured to any upright members.

My invention uses foldable tabs to secure the steel band to an upright member such as a stanchion post. The stanchion post, to which the steel band is secured, is press formed with tabs. This allows the person, or persons, working on the fence to quickly place the horizontal fencing element in place and secure it by turning over the tabs of the post against the steel band.

The tabs also allow for a quick visual indicator of alignment of the horizontal fencing element without having to resort to measuring of posts or estimating vertical distances between horizontal elements.

US462887 discloses a fence strand of sheet metal, with some versions of the strand displaying corrugations or undulations to increase the integrity of the fence strand. This patent has the same limitations as US486173, namely an absence of a quick and easy method of securing the strand to an upright fencing member and assembling of a fence line.

My invention is a stanchion post which is a prefabricated fencing component with integrally formed tabs to support a band of steel metal acting as a primary fencing medium. This greatly eases construction of fencing members, and allows farmers and the like to quickly establish a structurally sound and visibly attractive fence.

GB2039683 discloses a security system which comprises an elongated member, the inventive feature of which is the inclusion of a weakened portion which when ruptured causes an alarm condition.

My invention is intended to do quite the opposite of the use disclosed in GB2039683. The use of stanchions pre-fabricated with tabs that can be turned over to secure a fencing element facilitates the easy deployment of a fencing line as required. My invention is both durable and permits rapid construction of a fence with high structural integrity, so that it is suitable for containment of animals, particularly larger animals such as cattle or horses.

Both US citations are silent upon the point of securing the metallic or sheet metal fencing to a supporting post. Although the GB citation discusses posts supporting weakened elongated members, it is also silent upon the method of securing the elongate members to the posts. Therefore, none of the prior art cited by the examiner discloses a fencing stanchion with tabs which are turned over against a steel band.



Therefore, I consider my invention to be novel and inventive in light of the prior art.

My own invention is much more durable, as well as being simpler to manufacture and establish that those cited in the prior art. The key feature of interest which confers on my invention the facility to quickly establish a fence line is the inclusion on a stanchion post of tabs that can be turned over to secure the fencing member to the post. These tabs are prefabricated and integral to the stanchion, as discussed on page 5, line 3 of my specification, and this simplifies the overall production of the fencing stanchion.

The tabs also provide a horizontal visual reference for the person building the fence. There is no need to measure the vertical distance between horizontal members to ensure consistent spacing, as this is already done through the use of the integral tabs. From page 5, line 4 of my specification: *"This predetermined design eliminates measuring and marking of the post and ensures a precisely erected band structure"*.

My fence and method of building a fence achieves the visual effect of post and rail fencing but without the significant labour, time, and cost in doing so. It can also be retrofitted to an existing fence, as the stanchion posts are formed with perforations to allow it to be nailed to the in ground post, as per page 5, line 2, of my specification.

It is clear that none of the cited specifications makes any reference to a stanchion with tabs that can be turned over to secure the fencing element to the post.

I trust the foregoing overcomes the areas of concern in your examination report. I look forward to your response in due course.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Michael Alexander Smith', with a stylized, wavy line extending from the end.

Michael Alexander Smith  
RD Ongarue Stream Road  
Waimiha  
Taumarunui 2658  
NEW ZEALAND

Enclosed: revised claims set.



**WHAT WE CLAIM IS:**

1. A stanchion post which includes at least one tab to support a wide steel band of a light gauge to be used as a primary fencing medium,  
  
characterised in that the tab is configured be turned over against the steel band to hold the steel band in place when in use.
2. A stanchion post as claimed in claim 1, wherein the stanchion post is integrated with a fence post or batten.
3. A stanchion post as claimed in claims 1 or 2, wherein the stanchion post includes perforations for a nail to secure the stanchion post to a fence post or batten.
4. A stanchion post as claimed in anyone of claims 1 to 3, wherein the tabs of the stanchion post include perforations for a nail.
5. A wide steel band for use with a stanchion post as claimed in any one of claims 1 to 4 wherein the steel band is of a configuration that can be supported by the turned over tabs of the stanchion post.
6. A wide steel band for use with a stanchion post as claimed in any one of claims 1 to 3 wherein the steel band is produced in a continuous roll of convenient length and weight.
7. An end clamp for use with the stanchion post as claimed in any one of claims 1 to 4 wherein the end clamp is configured to locate the wide steel band into the stanchion post as a consequence of having slots in the end clamp through which the ends of the band can be turned over.



8. A central tensioner for use with the stanchion post as claimed in any one of claims 1 to 4 wherein the tensioner is configured to tension the steel band against the starting and finishing posts of the fence as a consequence of having slots in the tensioner through which the ends of the band can be turned over.
9. A joiner for use with the stanchion post as claimed in any one of claims 1 to 4 wherein the joiner is configured to connect adjacent lengths of wide steel bands to provide a continuous steel band as a consequence of slots in the joiner through which the ends of the band can be turned over.
10. A fencing system which includes a stanchion post as claimed in any one of claims 1 to 4, and a wide steel band of a light gauge to be used as a primary fencing medium.
11. A fencing system as claimed in claim 10 wherein the system includes an end clamp to fasten the steel band to the starting and finishing post of the fence.
12. A fencing system as claimed in claims 10 or 11 wherein the system includes a central tensioner for the steel band to tension the steel band against the starting and finishing posts of the fence.
13. A fencing system as claimed in any one of claims 10 to 12 wherein the system includes a joiner to connect adjacent lengths of steel bands to provide a continuous steel band.
14. A kitset for use in a fencing system wherein the kit includes a stanchion post as claimed in any one of claims 1 to 4 and a wide steel band of a light gauge to be used as a primary fencing medium.



15. A kitset as claimed in claim 14 wherein the kit includes an end clamp to fasten the steel band to the starting and finishing post of the fence.
16. A kitset as claimed in claims 14 or 15 wherein the kit includes a central tensioner for the steel band to tension the steel band against the starting and finishing posts of the fence.
17. A kitset as claimed in any one of claims 14 to 16 wherein the kit includes a joiner to connect adjacent lengths of steel bands to provide a continuous steel band.

A handwritten signature in black ink, appearing to be 'J. Smith' or similar, written in a cursive style.

13th March 2008



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Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL

## For FY 2008

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) **795.00**

### Complete, If Known

Application Number **10/562,525**  
Filing Date **12/27/2005**  
First Named Inventor **MICHAEL ALEXANDER SMITH**  
Examiner Name **GARCIA, ERNESTO**  
Art Unit **3679**  
Attorney Docket No. \_\_\_\_\_

### METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): **BANK DRAFT**

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For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee  
☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

### FEE CALCULATION

#### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	

#### 2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	210	105
Multiple dependent claims	370	185

Total Claims: \_\_\_\_\_ Extra Claims: \_\_\_\_\_ Fee (\$): \_\_\_\_\_ Fee Paid (\$): \_\_\_\_\_  
- 20 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims: \_\_\_\_\_ Extra Claims: \_\_\_\_\_ Fee (\$): \_\_\_\_\_ Fee Paid (\$): \_\_\_\_\_  
- 3 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of independent claims paid for, if greater than 3.

#### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$260 (\$130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets: \_\_\_\_\_ Extra Sheets: \_\_\_\_\_ Number of each additional 50 or fraction thereof: \_\_\_\_\_ Fee (\$): \_\_\_\_\_ Fee Paid (\$): \_\_\_\_\_  
- 100 = \_\_\_\_\_ / 50 = \_\_\_\_\_ (round up to a whole number) x \_\_\_\_\_ = \_\_\_\_\_

#### 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)  
Other (e.g., late filing surcharge): **EXTENSION FOR RESPONSE IN FOURTH MONTH** **795.00**

### SUBMITTED BY

Signature:  Registration No. (Attorney/Agent): \_\_\_\_\_ Telephone: **64 7 845857**  
Name (Print/Type): **MICHAEL ALEXANDER SMITH** Date: **31 October 2007**

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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31-OCT-2007

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Products Or Services

TAX INVOICE GST #27-351-767

PRODUCT	QTY	\$ AMOUNT
INT EXP DOC A,B;C,D,E Destination Zone C Weight 500gm & 1.0kg 0 - 500gm Weight(kg) 0.05	1	41.70*
SUBTOTAL		\$41.70

ALL PRICES GST INCLUSIVE  
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-----EFTPOS-----  
5035138482220247 DEBIT 0908 CHQ  
31/10/07 12:22:26 00 TERM 194111080003  
TRANS NO 030459 AUTH CODE 184088  
PURCHASE \$41.70  
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TOTAL AMT \$41.70  
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TRANSACTION TOTAL \$41.70  
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Company:	COMPASSION FOR AFRICA	Address:	PO BOX 100000
Address:	PO BOX 100000	City:	WASHINGTON DC
City:	WASHINGTON DC	State/Region:	USA
State/Region:	USA	Country:	USA
Country:	USA	Postal/Zip Code:	20540
Postal/Zip Code:	20540	Tel No:	
Tel No:		Receiver's VAT/GST No. (optional):	

2. FROM (Sender)

Name:	COMPASSION FOR AFRICA	Date:	24/10/07
Company:	COMPASSION FOR AFRICA	Address:	PO BOX 100000
Address:	PO BOX 100000	City:	WASHINGTON DC
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State/Region:	USA	Country:	USA
Country:	USA	Postal/Zip Code:	20540
Postal/Zip Code:	20540	Tel No:	
Tel No:		Sender's Account No. (NPID):	
Sender's Account No. (NPID):		Sender's ID and Reference:	

3. CUSTOMS DECLARATION

Itemised List of Contents	No. of Items	Value NZ\$
Documents	1	NCV
Gift		
Merchandise/Sample		
Signature of Sender		



ED 158 733 444 NZ

Please tick the service you require.

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Tick ☐ International Express

PRIORITY

(for approved commercial customers only)

4. ADDITIONAL COMPENSATION COVER / NON-DELIVERY

Additional Compensation Cover

☐ Cover Required

Insured Value NZ\$

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5. SENDER'S AUTHORIZATION AND SIGNATURE

I certify that the contents do not contain any prohibited or dangerous articles and may be opened officially in accordance with the terms and conditions of carriage on the reverse of the Sender's copy.

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New Zealand Post



Taumarunui  
58 Miriama Street  
Taumarunui

31 October 2007

Visi-Band Fencing Systems Limited  
C/- MA + CY Smith  
657 Ongarue Stream Road, RD  
Waimiha



We have issued draft number: 15090484  
In favour of: U.S Patent and Trademark Office  
For amount: USD 795.00  
Our transaction reference: 0426 000002363  
Value date: 31/10/2007

**Our Bank Charges**

DRAFT COMM.	NZD	25.00
TOTAL BANK CHARGES:	NZD	25.00

**Conversion Details**

AMOUNT	FEC No.	EXCH. RATE	AMOUNT
USD 795.00		0.75930000	NZD 1,047.02
NZD 25.00		1.00000000	NZD 25.00

**Settlement Details**

CUSTOMER REF	ACCOUNT NUMBER	AMOUNT
	03-0426-0208271-00	NZD 1,072.02 DR

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Any stop payment or enquiries as to whether a draft has been presented, at the request of the purchaser, may be subject to an additional fee. All enquiries are to be made through the Westpac Branch from which the Draft was purchased or your nearest Branch. Please present this receipt showing the details of your Draft to assist us with your enquiry.

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x9534673

13 February 2008

Michael Smith  
657 Ongarue Stream Road  
RD 1  
Waimiha 3998

Dear Michael Smith,

Thank you for your inquiry concerning the parcel posted to Us Patent and Trademark Office on 31<sup>st</sup> October 2007.

Compensation for the failure of delivery of the item is now being considered. If approved, we will direct credit the compensation payment to your nominated bank account. In order that this may be finalised, please provide the following, if not already supplied; proof of posting, proof of purchase (receipt or invoice) and bank account details (such as a printed deposit slip or bank statement showing name and account details only).

Please respond within 5 days of this letter. Claims will be declined should this documentation not be provided.

Yours faithfully

Conrad Hargreaves  
Customer Service Representative